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14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 Cung Le, Nathan Quarry, Jon Fitch, Brandon Vera,
17 Luis Javier Vazquez, and Kyle Kingsbury on behalf
18 of themselves and all others similarly situated,

19 Plaintiffs,
20 v.

21 Zuffa, LLC, d/b/a Ultimate Fighting Championship
22 and UFC,

23 Defendant.

24 Case No.: 2:15-cv-01045-RFB-(BNW)

25 **DEFENDANT ZUFFA, LLC'S**
26 **RESPONSE TO PLAINTIFFS'**
27 **STATEMENT REGARDING**
28 **INJUNCTIVE RELIEF**

1 Plaintiffs' Statement Regarding Injunctive Relief, filed on December 22, 2023, notified
 2 the Court that Plaintiffs will no longer be pursuing injunctive relief in this case. ECF No. 947.
 3 Plaintiffs' decision to drop their request for injunctive relief directly contradicts the Class Notice
 4 Plan on which Plaintiffs conferred with Defendant Zuffa, LLC ("Zuffa"), and which was
 5 approved by the Court on November 17, 2023. ECF No. 921; ECF No. 916-1 (Plaintiffs' original
 6 Notice Plan stating, "Plaintiffs seek to recover from Defendant in this Action money damages
 7 reflecting the amount Plaintiffs claim that members of the Bout Class were underpaid due to the
 8 alleged Scheme. **Plaintiffs also seek injunctive relief to stop Defendant from continuing to**
 9 **engage in the alleged anticompetitive conduct.**" (emphasis added)). Plaintiffs' decision not to
 10 pursue injunctive relief means that Plaintiffs need to amend their class notice in order to meet the
 11 class notice requirements of Fed. R. Civ. P. 23(c)(2)(B), which requires a notice to "clearly and
 12 concisely state" the "nature of the action," "class claims, issues, or defenses," and "binding effect
 13 of a class judgment" on prospective class members.

14 A class notice must include all information necessary for a reasonable person to make "an
 15 informed, intelligent decision of whether to opt-out or remain a member of the class." *Tierno v.*
 16 *Rite Aid Corp.*, 2007 WL 4166028, at *1 (N.D. Cal. Nov. 19, 2007). Notice is not adequate if its
 17 language misleads potential class members. *Molski v. Gleich*, 318 F.3d 937, 952 (9th Cir. 2003),
 18 *overruled on other grounds by Dukes v. Wal-Mart Stores, Inc.*, 603 F.3d 571 (9th Cir. 2010).
 19 Courts have routinely underscored the importance of class notices clearly indicating the nature of
 20 the relief sought by class counsel on behalf of prospective class members. *See e.g., Bentley v.*
 21 *Honeywell International Inc.*, 223 F.R.D. 471, 486 (S.D. Ohio 2004); *Pearson v. Target Corp.*,
 22 893 F.3d 980, 985-86 (7th Cir. 2018); *Strauch v. Comput. Scis. Corp.*, 2020 WL 4371816, at *6
 23 (D. Conn. July 29, 2020). The fact that the *Johnson* class continues to pursue injunctive relief
 24 does not excuse *Le* class counsel from their obligation to provide fulsome clarity to prospective
 25 *Le* class members—who deserve to understand, and not be misled regarding, the nature of the
 26 relief being sought in *Le*. That is particularly true given that *Johnson* has only just entered
 27 discovery and any injunctive relief would be years away, as opposed to the Class Notice's
 28 indication that such relief could occur as soon as the *Le* trial concludes in just a few months.

Zuffa therefore intends to file a motion to amend Plaintiffs' class notice pursuant to Rule 23(c)(2)(B).

Dated: January 22, 2024

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Zuffa's Response to Plaintiffs' Statement Regarding Injunctive Relief was served on January 22, 2024, via the Court's CM/ECF electronic filing system addressed to all parties on the e-service list.

/s/ William A. Isaacson
William A. Isaacson